

111TH CONGRESS
1ST SESSION

H. R. 2302

To amend title 10, United States Code, to limit recoupments of separation pay, special separation benefits, and voluntary separation incentive from members of the Armed Forces subsequently receiving retired or retainer pay.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2009

Ms. SHEA-PORTER (for herself, Mr. HODES, and Mrs. KIRKPATRICK of Arizona) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to limit recoupments of separation pay, special separation benefits, and voluntary separation incentive from members of the Armed Forces subsequently receiving retired or retainer pay.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Retired Pay
5 Fairness Act of 2009”.

1 **SEC. 2. LIMITATIONS ON RECOUPMENT OF SEPARATION**
2 **PAY, SPECIAL SEPARATION BENEFITS, AND**
3 **VOLUNTARY SEPARATION INCENTIVE FROM**
4 **MEMBERS SUBSEQUENTLY RECEIVING RE-**
5 **TIRED OR RETAINER PAY.**

6 (a) SEPARATION PAY AND SPECIAL SEPARATION
7 BENEFITS.—Section 1174(h)(1) of title 10, United States
8 Code, is amended—

9 (1) by inserting “(A)” after “(1)”;

10 (2) in subparagraph (A), as so designated, by
11 striking “so much of such pay as is based on the
12 service for which he received separation pay under
13 this section or separation pay, severance pay, or re-
14 adjustment pay under any other provision of law”
15 and inserting “an amount, in such schedule of
16 monthly installments as the Secretary of Defense
17 shall specify taking into account the financial ability
18 of the member to pay and avoiding the imposition of
19 undue financial hardship on the member and mem-
20 ber’s dependents,”; and

21 (3) by adding at the end the following new sub-
22 paragraphs:

23 “(B) The amount deducted under subparagraph (A)
24 from a payment of retired or retainer pay may not exceed
25 25 percent of the amount of the member’s retired or re-
26 tainer pay for that month unless the member requests or

1 consents to deductions at an accelerated rate. The Sec-
2 retary of Defense shall consult with the member regarding
3 the repayment rate to be imposed, taking into account the
4 financial ability of the member to pay and avoiding the
5 imposition of an undue hardship on the member and the
6 member's dependents.

7 “(C) The deduction of amounts from the retired or
8 retainer pay of a member under this paragraph may not
9 commence until the date that is 90 days after the date
10 on which the Secretary of Defense notifies the member
11 of the deduction of such amounts under this paragraph.
12 Any notice under this subparagraph shall be designed to
13 provide clear and comprehensive information on the de-
14 duction of amounts under this paragraph, including infor-
15 mation on the determination of the amount and period of
16 installments under this paragraph.

17 “(D) The Secretary of Defense may waive the deduc-
18 tion of amounts from the retired or retainer pay of a mem-
19 ber under this paragraph if the Secretary determines that
20 deduction of such amounts would result in a financial
21 hardship for the member.”.

22 (b) VOLUNTARY SEPARATION INCENTIVE.—Section
23 1175(e)(3) of such title is amended—

24 (1) in subparagraph (A), by striking “so much
25 of such pay as is based on the service for which he

1 received the voluntary separation incentive” and in-
2 serting “an amount, in such schedule of monthly in-
3 stallments as the Secretary of Defense or the Sec-
4 retary of Homeland Security, as applicable, shall
5 specify taking into account the financial ability of
6 the member to pay and avoiding the imposition of
7 undue financial hardship on the member and mem-
8 ber’s dependents,”;

9 (2) by redesignating subparagraph (B) as sub-
10 paragraph (C);

11 (3) by inserting after subparagraph (A) the fol-
12 lowing new subparagraph:

13 “(B) The amount deducted under subparagraph (A)
14 from a payment of retired or retainer pay may not exceed
15 25 percent of the amount of the member’s retired or re-
16 tainer pay for that month unless the member requests or
17 consents to deductions at an accelerated rate. The Sec-
18 retary of Defense or the Secretary of Homeland Security,
19 as applicable, shall consult with the member regarding the
20 repayment rate to be imposed, taking into account the fi-
21 nancial ability of the member to pay and avoiding the im-
22 position of an undue hardship on the member and the
23 member’s dependents.”; and

24 (4) by adding at the end the following new sub-
25 paragraphs:

1 “(D) The deduction of amounts from the retired or
2 retainer pay of a member under this paragraph may not
3 commence until the date that is 90 days after the date
4 on which the Secretary of Defense or the Secretary of
5 Homeland Security, as applicable, notifies the member of
6 the deduction of such amounts under this paragraph. Any
7 notice under this subparagraph shall be designed to pro-
8 vide clear and comprehensive information on the deduction
9 of amounts under this paragraph, including information
10 on the determination of the amount and period of install-
11 ments under this paragraph.

12 “(E) The Secretary of Defense or the Secretary of
13 Homeland Security, as applicable, may waive the deduc-
14 tion of amounts from the retired or retainer pay of a mem-
15 ber under this paragraph if the Secretary determines that
16 deduction of such amounts would result in a financial
17 hardship for the member.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the first day of the first
20 month beginning on or after the date of the enactment
21 of this Act and apply to deductions made from the retired
22 or retainer pay of members of the uniformed services for
23 that month and subsequent months.

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